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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/560,057	12/08/2005	Rainer Glauning	3527	9833
7590 Striker Striker & Stenby 103 East Neck Road Huntington, NY 11743				
EXAMINER				
ONEILL, KARIE AMBER				
ART UNIT		PAPER NUMBER		
1795				
MAIL DATE		DELIVERY MODE		
08/20/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/560,057

**Applicant(s)**

GLAUNING ET AL.

**Examiner**

Karie O'Neill

**Art Unit**

1795

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 June 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 5-8 and 10-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 5-8 and 10-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 December 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SF-08)  
Paper No(s)/Mail Date 4-23-08
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on June 11, 2008 has been entered.
2. Claims 5 and 11 have been amended. Claims 1-4 and 9 have been canceled. Claim 12 has been added as new. Therefore, Claims 5-8 and 10-12 are pending in this office action.

***Priority***

2. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d) or (f), which papers have been placed of record in the file.

***Information Disclosure Statement***

3. Information disclosure statement (IDS), submitted April 23, 2008, has been considered by the examiner.

***Claim Rejections - 35 USC § 112***

4. The rejection of Claim 10 under 35 U.S.C. 112, second paragraph, has been overcome based on the explanation given by Applicant in the specification as well as a provided dictionary definition.

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claim 11 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The amendment "is peripherally adjacent to" in line 2, doesn't make grammatical sense and should be appropriately corrected. The phrase appears to be a grammatical error.

***Claim Rejections - 35 USC § 102***

7. The rejection of Claims 5-10 under 35 U.S.C. 102(e) as being anticipated by Shimma (US 6,566,005 B1) are overcome, because of the amendments to the claims.

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 5-8 and 10-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Walker et al. (US 6,004,689).

With regard to Claim 5, Walker et al. discloses in Figures 1, 2 and 9, a battery pack (11), comprising a housing (10); a plurality of battery cells (22) located in an interior of said housing (10) in compartments (20, 30, 40, 50, 60, 70) and having longitudinal axes or a depth; and heat-diffusing means, or openings (86,88), for diffusing heat or allowing ventilation from said battery cells (22), said heat diffusing means (86,88) including an interior wall of said housing which is peripherally adjacent to said battery cell compartments (20, 30, 40, 50, 60, 70) from outside of said battery cell compartments (20, 30, 40, 50, 60, 70) and is shaped so that it forms at least one peripherally closed and uninterrupted duct which extends parallel to said longitudinal axes (depth) of said battery cell compartments (20, 30, 40, 50, 60, 70) from one axial side, top (80), to another axial side, bottom (90), of said housing (10) and is closed off in its entirety from the interior of said housing (10) in which said battery cells (22) are located, for passing a heat-diffusing medium through the depth of or from one axial side, top (80), to another axial side, bottom (90), of said housing (10) between said battery cell compartments (20, 30, 40, 50, 60, 70) (column 4 lines 14-59).

With regard to Claims 6 and 10, Walker et al. discloses in Figure 2, wherein said at least one duct (86,88) has wall regions that rest in form-locking fashion against said battery cell compartments (20, 30, 40, 50, 60, 70) that are located adjacent to said wall regions, and wherein said at least one duct (86,88) is located in a nip between individual ones of said battery cell compartments (20, 30, 40, 50, 60, 70).

With regard to Claim 7, Walker et al. discloses wherein said wall regions of said at least one duct (86, 88) include at least partly a heat- conducting material. Walker et al. discloses that ducts (86, 88) allow for ventilation through the top (80) along the entire depth of the compartments (20, 30, 40, 50, 60, 70) and an optional temperature sensor may be inserted into the ducts (86, 88) to monitor if the battery is operating at an unsafe or otherwise undesirable temperature, which means that the ducts (86, 88) are heat conducting (column 4 lines 37-46).

With regard to Claim 8, Walker et al. discloses in Figure 2, wherein said wall regions of said at least one duct (86,88) that include said heat-conducting material are located in the center of the housing and recessed so far from outer wall regions of said housing (10) that contact with said heat-conducting material by a user is prevented.

With regard to Claim 11, Walker et al. discloses in Figures 1, 2, and 9, a battery pack (11), comprising a housing (10); a plurality of battery cells (22) peripherally adjacent to said housing and having longitudinal axes or a depth; and heat-diffusing means, openings (86,88), for diffusing heat or allowing ventilation from said battery cells (22), said heat diffusing means (86,88) including an interior wall of said housing which is peripherally adjacent to said battery cell compartments (20, 30, 40, 50, 60, 70), from outside of said battery cell compartments (20, 30, 40, 50, 60, 70), and is shaped so that it forms at least one peripherally closed and uninterrupted duct (86,88) which is located between a plurality of individual ones of said battery cell compartments (20, 30, 40, 50, 60, 70) from one axial side, top (80), to another axial side, bottom (90), of said housing (10), extends parallel to said longitudinal axes (depths) of said battery cells (22) and is

closed off peripherally and uninterrupted from the interior of said housing in which said battery cells (22) are located, for passing of a heat-diffusing medium through the depth of or from one axial side, top (80), to another axial side, bottom (90) of said housing (10) between said battery cells (22) and battery cell compartments (20, 30, 40, 50, 60, 70) (column 4 lines 14-59).

With regard to Claim 12, Walker et al. discloses in Figures 1, 2 and 9, a battery pack (11), comprising a housing (10); a plurality of battery cells (22) located in battery cell compartments (20, 30, 40, 50, 60, 70) in an interior of said housing and having longitudinal axes or a depth; and heat-diffusing means, or openings (86,88) for diffusing heat or allowing ventilation from said battery cells (22), said heat diffusing means (86,88) including an interior wall of said housing which is peripherally adjacent to said battery cell compartments (20, 30, 40, 50, 60, 70), from outside of said battery cell compartments (20, 30, 40, 50, 60, 70), and is shaped so that it forms at least one peripherally closed and uninterrupted duct (86,88) which is located between a plurality of individual ones of said battery cell compartments (20, 30, 40, 50, 60, 70) extends parallel to said longitudinal axes (depths) of said battery cells (22) and is closed off in its entirety from the interior of said housing in which said battery cells (22) are located, for passing of a heat-diffusing medium through the depth of or between said battery cells (22) and battery cell compartments (20, 30, 40, 50, 60, 70) (column 4 lines 14-59).

***Response to Arguments***

10. Applicant's arguments with respect to claims 5-8 and 10-12 have been considered but are moot in view amendments to the claims and a new ground(s) of rejection.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karie O'Neill whose telephone number is (571)272-8614. The examiner can normally be reached on Monday through Friday from 8am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Ryan can be reached on (571) 272-1292. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Karie O'Neill  
Examiner  
Art Unit 1795

KAO

/Mark Ruthkosky/

Primary Examiner, Art Unit 1795